

CHAPTER 24

TOW CARS

ARTICLE I

GENERAL PROVISIONS

§ 24.1 Title

This Chapter shall be known and may be cited as the "Village of Mineola Tow Car Law."

§ 24.2 Legislative findings

It is hereby declared and found that it is of vital importance to the traveling public that disabled vehicles be removed from the highways as promptly as possible, that delay in removal results in retarding the movement of traffic unnecessarily and causes street accidents and that the towing of disabled motor vehicles in streets of the Incorporated Village of Mineola is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safe-guarding the public against fraud and exorbitant rates and similar abuses.

§ 24.3 Definitions

Unless the context or subject matter otherwise requires, the following words shall have the meanings herein provided:

VILLAGE: The incorporated area of the Village of Mineola, either on private property or on the highways of the Village of Mineola.

TOWING: The moving or removing of disabled or abandoned motor vehicles by another vehicle for hire.

TOW CAR: A motor vehicle which is used to remove any disabled motor vehicle from the scene of an accident or to remove abandoned motor vehicles.

FOR HIRE: Any incident where a fee, charge or other consideration is directly or indirectly imposed for towing, carrying or removing a vehicle, and it shall include any case where any person makes repairs on a towed vehicle for a consideration, although no charge is expressly imposed for the towing of such vehicle.

OWNER: A person owning or leasing or controlling one or more

tow cars and driving or operating or causing any such vehicle to be operated upon the public highway for hire.

DRIVER: Any person driving a tow car upon the public highways.

HELPER: Any person on the tow car other than the driver.

OPERATE: The control and direction of the use of a vehicle for towing from places within the Village of Mineola.

ARTICLE II

TOW CAR AND OWNER'S LICENSE REQUIREMENTS

§ 24.21 Licenses required

It shall be unlawful for any person to operate any tow car or permit any tow car owned or controlled by him or her to be operated upon the highways, roads or streets within the Village of Mineola without first having obtained and having then in full force and effect an owner's license therefor and a tow car license for the vehicle being operated as hereinafter provided.

§ 24.22 License expiration date

Every license issued hereunder shall expire on the 31st day of January of the year next succeeding the date of its issuance, unless sooner revoked by the Village Board, as hereinafter provided.

§ 24.23 Application for tow car license

Every person who desires to operate a tow car or tow cars owned or controlled by him or her upon the public highways within the Village shall file with the Village Clerk a written application upon forms to be furnished by the Village Clerk, verified under oath stating:

A. The name and address of the applicant, address place from which tow cars are proposed to be garaged and dispatched, specifying, in the case of any unincorporated association, the names and addresses of each member thereof, and in the case of any corporation, the names and addresses of each officer.

B. All crimes of which the applicant or any member thereof, if an unincorporated association, or any officer, if a corporation, has been convicted, stating the name and location of the court in which and the date on which such convictions were had and the penalties imposed therefor.

C. The experience of the applicant in towing of vehicles for hire.

D. Any facts which the applicant believes tend to prove that the public convenience and necessity require the granting of a license to him or her.

E. The number of vehicles proposed to be operated by the applicant and a description of each such vehicle including the make, model, year of manufacture, New York State registration number and vehicle identification number thereof.

F. The age and citizenship of the applicant and each member thereof, if an unincorporated association, and each officer thereof, if a corporation.

G. The location of any and all depots and terminals proposed to be used by the applicant.

H. Any other relevant information which the Licensing Officer may require to more fully explain any of the above.

§ 24.24 Application for owner's license

Every individual applicant for an owner's license, at the time of submitting his or her application, shall also:

A. Submit two (2) individual photographs of the applicant taken within thirty (30) days prior to the date of the application, one and one-half by one and one-half ($1\frac{1}{2} \times 1\frac{1}{2}$) inches in size and such pictures must be a true likeness of the applicant and must show neck, shoulders and uncovered head.

B. Be fingerprinted under the direction and supervision of the Licensing Officer.

§ 24.25 Investigation required

Upon receipt of any application, the Licensing Officer* shall refer the same to the Nassau County Police Department for such investigation as it shall deem necessary or advisable and report thereon.

§ 24.26 Procedures for licensing

A. If the Licensing Officer shall find that the tow car service in the Village and particularly in the area in which the applicant proposes to operate is required by the public convenience and necessity and that the applicant is a fit person and capable of properly conducting such tow car business and to conform to the provisions of this Chapter, then the Licensing Officer upon the certification of each tow car proposed to be operated by the applicant, and the furnishing by the applicant of proof of insurance, as herein provided, shall issue a license stating the name and address of the applicant, and the date of the issuance thereof, the number of vehicles the applicant is authorized to operate, and at the same time the Licensing Officer shall issue for each vehicle licensed hereunder a license bearing the words, "Licensed Tow Car", an assigned number and the year of issuance; otherwise such application shall be denied.

B. Before making any findings as to whether public convenience and necessity justify the issuance of a tow car owner's license, or the licensing of additional tow cars under § 24.28 hereof, the Licensing Officer shall cause to be published in a newspaper of general circulation in the Village of Mineola a notice stating that application has been made for the licensing of a vehicle or vehicles as tow cars, the number of vehicles for which such application has been made and containing a statement that written statements as to whether public convenience and necessity require the licensing of such vehicles must be filed with the Licensing Officer on or before the date fixed therein, which date must be not less than eight (8) days after the date of such publication. Any statement so filed must be considered by the Licensing Officer in making his or her findings as to public convenience and necessity.

*The Mayor is the Licensing Officer unless he or she designates another Village Officer in writing as Licensing Officer. Vil L § 4-400(1)(m).

In making the findings required by this Section, the Licensing Officer shall take into consideration the number of tow cars already in operation in the Village, particularly in the area in which the applicant proposed to locate his or her depots and terminals, whether existing tow car service is adequate to meet the public needs, the probable effect of additional tow cars on local traffic conditions and the character, experience and responsibility of the applicant and the adequacy of the service which the applicant proposes to give.

§ 24.27 Applicant subject to examination or hearing

The Licensing Officer may, in his or her discretion, before the issuance of a license under this Article, require the applicant and any others having knowledge of the facts to submit to an examination under oath and to produce evidence relating thereto, or hold a hearing upon such application as herein provided.

§ 24.28 Licensing of additional tow cars

Every owner licensed under this Article who shall desire to add to the number of tow cars he or she is then operating pursuant to a license hereunder, shall file with the Licensing Officer a written application under oath stating:

- A. The name and address of the applicant.
- B. The applicant's owner's license number.
- C. Any facts which the applicant believes tend to prove that the public convenience and necessity require such addition.
- D. A description of each such additional tow car including the make, vehicle identification number and the year of manufacture.
- E. If the Licensing Officer shall find that the addition of such tow car or tow cars is required by the public convenience and necessity, then he or she shall issue a supplementary owner's license stating the name and address of the applicant, the number of applicant's owner's license, and the number of additional vehicles the applicant is authorized to operate, and the date of the issuance thereof; and, at the same time, a license for each additional tow car in the form as provided in § 24.26(A), otherwise such application shall be denied.

§ 24.29 Licensing of additional tow car service locations

Every owner licensed under this Chapter who shall desire to add additional places of tow car service or who shall desire to transfer a place of tow car service shall file with the Licensing Officer a written application under oath stating:

- A. The name and address of the applicant.
- B. The applicant's owner's license number.
- C. Any facts which the applicant believes tend to prove that the public convenience and necessity require such additional places of tow car service or transfer or place of tow car service.
- D. The address of the additional place of tow car service or transfer.
- E. If the Licensing Officer shall find that the additional places or transfer of tow car service are required by the public convenience and necessity, then he or she shall issue written permission stating the additional places or transfer, as the case may be, and the date thereof; otherwise such application shall be denied.

§ 24.30 Miscellaneous regulations

- A. License renewal.

Any license under this Article may be renewed annually for additional periods of one (1) year each from the date of expiration upon the filing of an application containing all the information required by the provisions of this Chapter for original applications, except the facts with respect to public convenience and necessity.

- B. Inspection of vehicle required.

No license shall be issued or renewed under this Article which shall permit the use of any vehicle as a tow car unless and until it has been inspected pursuant to § 24.61(B) and certified to the Licensing Officer as conforming to the provisions of this Chapter.

- C. Liability insurance required.

Each applicant shall, before the issuance to him or her of a license under this Article, file with the Licensing Officer evidence that he or she is insured against public liability in the limits of Ten Thousand Dollars (\$10,000.00) for personal injuries to each person and Twenty Thousand Dollars (\$20,000.00) for personal injuries for each accident and Five Thousand Dollars (\$5,000.00) for property damage, which insurance shall be maintained in force during the period covered by the license.

D. License not transferable.

The owner's license issued hereunder shall not be transferable.

ARTICLE III

DRIVER'S AND HELPER'S LICENSE

§ 24.31 Driver's and helper's licenses required

It shall be unlawful for any person to operate a tow car for hire in the Village of Mineola as a driver, or to be or act as a helper or in connection therewith, unless such driver or helper shall have first obtained a license from the Licensing Officer as hereinafter provided.

§ 24.32 License expiration

Every driver's or helper's license issued under this Article shall be issued as of the date of the granting thereof and shall expire on the 31st day of December next succeeding, unless sooner revoked by the Village Board as hereinafter provided.

§ 24.33 Application for licenses

Every person desiring to operate or drive or act as a helper on a tow car for hire upon the streets of the Village shall file an application for a license so to operate or act with the Licensing Officer, which application shall be in writing upon forms to be furnished by the Licensing Officer and verified under oath and shall state:

- A. The name, address and age of the applicant.
- B. A full description of the applicant including his or her color, height, weight, color of eyes and hair, any scars or marks and the nature of any physical infirmity from which he or she may suffer.
- C. Recommendation by two (2) residents of Nassau County who have known the applicant for a period of three (3) years or more and who will vouch for the applicant's sobriety, honesty and general good character.
- D. Whether or not he or she is a citizen of the United States.
- E. The names and addresses of the applicant's employers during the last two (2) years prior to his or her application.
- F. All crimes of which the applicant has ever been arrested or convicted, stating the date and place of each such arrest and the name and location of the court in which and the date on which each such conviction was had and the penalty imposed therefor.
- G. In the case of a driver, the number and date of issuance of the applicant's New York chauffeur's license.
- H. Any other relevant information which the Licensing Officer may require to more fully explain any of the above.

§ 24.34 Additional requirements for applicants

Every applicant for a driver's or helper's license shall at the time of submitting his or her application also:

- A. Submit two (2) individual photographs of the applicant, taken within thirty (30) days prior to the date of the application one and one-half by one and one-half ($1\frac{1}{2} \times 1\frac{1}{2}$) inches in size, and such picture must be a true likeness of the applicant and must show only neck, shoulders and uncovered head.
- B. In the case of an application for a driver's license, exhibit his or her current New York State Chauffeur's license for inspection.
- C. Be fingerprinted under the direction and supervision of the Licensing Officer.

§ 24.35 Police report required

Upon the receipt of any application, the Licensing Officer shall refer the same to the Nassau County Police Department for such investigation as it shall deem necessary or desirable and report thereon.

§ 24.36 Issuance of driver's license

Upon receipt of the police report provided for in this Article, the Licensing Officer shall issue a tow car driver's license to the applicant if he or she shall find that the applicant holds a New York State chauffeur's license and is a fit and proper person to drive a tow car considering his or her experience, police report and character; otherwise such application shall be denied.

§ 24.37 Issuance of helper's license

Upon receipt of the police report provided for in this Article, the Licensing Officer shall issue a tow car helper's license to the applicant, if he or she shall find that the applicant is a fit and proper person considering his or her experience and character; otherwise such application shall be denied.

§ 24.38 Licenses not transferable

The driver's or helper's license issued hereunder shall not be transferable.

ARTICLE IV

APPEAL TO VILLAGE BOARD

§ 24.41 Application for review

Any applicant who shall have been denied a license under this Chapter by the Licensing Officer or who shall have been issued a license by the Licensing Officer for less tow cars than the number for which he or she applied, may apply to the Village Board for a review of the action of the Licensing Officer as hereinafter provided:

A. Written application.

Such application to the Village Board shall be in writing signed and verified by the applicant and shall state the ground or grounds on which the applicant claims that the determination of the Licensing Officer was erroneous.

B. Time limit.

Such application shall be filed with the Village Clerk by the applicant within twenty (20) days after notice of denial of his or her application by the Licensing Officer has been mailed to him or her or delivered to him or her in person.

C. Hearing.

Upon the filing of such application, the Village Board shall hold a hearing thereon pursuant to the provisions of § 24.43.

D. Evidence.

At such hearing the Village Board shall consider the applicant's application upon the record before the Licensing Officer in connection with the Licensing Officer's consideration thereof and in its discretion may receive new or additional evidence in support thereof or in opposition thereto.

§ 24.42 Village Board decisions

The Village Board, after such hearing, may affirm the action of the Licensing Officer or direct the Licensing Officer to issue a proper license, pursuant to this Chapter.

§ 24.43 Hearings before Village Board

A. Designation of date and time.

Whenever it shall be provided herein that a hearing shall or may be held by the Village Board, such hearing shall be held on a date and at a place and hour designated by the Village Board.

B. Notice; time.

The Village Clerk shall give notice thereof, stating the name and address of the applicant or license holder concerned, the subject matter of the hearing and the date, place and hour thereof designated therefor, by mailing a copy thereof to the applicant or license holder concerned at the address shown upon the most recent application of such applicant or licensee at least ten (10) days before such hearing.

C. Representation; evidence.

Upon any hearings, the applicant or license holder involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his or her own behalf as may be relevant to the subject matter of the hearing.

D. Swearing of witnesses.

All witnesses shall be sworn and examined under oath.

ARTICLE V

ISSUANCE; SUSPENSION AND REVOCATION OF LICENSES

§ 24.51 Fees

The fees for filing applications hereunder established by Resolution of the Board of Trustees shall be paid to the Village Clerk at the time the application is filed, which fees shall not be refunded if the application is not approved.

§ 24.52 Licenses must be signed by Licensing Officer and carry Village Seal

Every license issued hereunder shall be signed by the Licensing Officer and sealed with the seal of the Village of Mineola.

§ 24.53 Village Clerk to maintain records

The Village Clerk shall keep a record of the name and address of each person to whom a tow car owner's license has been issued under this Chapter, showing the date and number of such license and all renewals, suspensions and revocations thereof, and a record of each tow car licensed hereunder stating the make, model, year of manufacture, New York State registration number and vehicle identification number thereof and the name and address of the person owning the tow car and a record of each driver's and helper's license issued hereunder showing the name and address of such driver and helper, his or her New York State chauffeur's license number, his or her driver's and helper's license issued hereunder and the date of issuance of such driver's and helper's license.

§ 24.54 Suspension and revocation of license

A. Suspension; revocation; grounds.

Any license issued hereunder may be suspended for a period of not more than three (3) months or revoked by the Village Board if the holder thereof shall violate any provision of this Chapter or any rule or regulation adopted hereunder, or any provision of the Municipal Code or be convicted of the violation of any traffic law, rule or regulation of the State of New York, or of any municipality of the State of New York, or of any crime, or be guilty of making a false statement or misrepresentation in his or her application.

Any license issued hereunder may be suspended by the Village Board if the holder thereof shall be indicted or charged upon information, duly filed with the public authorities, with or for the commission of any crime or offense until such holder shall be convicted or acquitted of such crime or offense.

B. Hearing; notice.

No license shall be either suspended or revoked by the Village Board hereunder without a hearing thereon, held not less than twenty (20) days after written notice thereof shall have been given to the licensee, either in person or by registered mail.

C. Temporary suspension.

The Licensing Officer, upon receiving information giving him or her reasonable cause to believe that the holder of any license issued hereunder has violated any provision of this Chapter or been convicted of any violation referred to in § 24.54(A) or indicted or charged with or for any crime or offense or is guilty of having made a false statement or misrepresentation in his or her application, may forthwith temporarily suspend such license until a hearing is held by the Village Board as provided in § 24.54(A) and § 24.43 hereof and the Village Board shall have issued its determination thereon.

ARTICLE VI

REGULATIONS FOR TOW CAR OWNERS

§ 24.61 Maintenance and inspection

A. Maintenance.

Every vehicle operated upon the streets of the Village as a tow car shall be kept fit, of good appearance and in a safe condition for towing.

B. Inspection.

The Village Board shall establish reasonable rules and regulations for the inspection of tow cars operated upon the streets of the Village.

§ 24.62 Required lettering; affixing license

A. Name and address; license.

Each tow car operated hereunder shall bear on the outside of each front door the words "tow car" and the name and address of the owner in letters not less than two (2) inches and not more than four (4) inches in height, either painted thereon or otherwise securely affixed thereto. The license shall be affixed to the left front door in a conspicuous place as hereinafter provided.

B. Rates.

A tow car owner shall have legibly inscribed on each side of the tow car in letters and numerals not less than one and one half (1½) inches in height the lawful towing rates he or she has filed with the Village Clerk.

§ 24.63 Towing and storage charges

The owner of a tow car shall prepare a typewritten schedule in triplicate of maximum prices to be charged for towing and storing of disabled motor vehicles, and all three (3) copies of such schedule shall be filed with the Village Clerk.

A. Towing.

The charges for towing shall be based solely upon the distance disabled vehicles are to be towed and not estimated or based upon the availability of tow cars. Towing charges shown on schedules, filed as required therein, shall not exceed the following maximum charges:

1. For the first three (3) miles or part thereof: Thirty-Five Dollars (\$35.00).

2. For each additional mile or part thereof: Three Dollars (\$3.00).

B. Storage.

Storage charges shall be at the rate of not more than Five Dollars (\$5.00) for the first seven (7) days and not more than Ten Dollars (\$10.00) per day for the next twenty-three (23) days and not more than Fifteen Dollars (\$15.00) for each day thereafter.

C. Prior contracts.

These towing or storage charges shall not apply to the towing of motor trucks exceeding one and one-half ($1\frac{1}{2}$) ton capacity, nor shall they apply to towing under a contract which was in existence prior to the motor vehicle involved having become disabled. No information shall be contained in this schedule other than charges for towing and storage.

§ 24.64 Towing authorization

No vehicle involved in an accident or otherwise disabled shall be removed without an authorization, on a form prescribed by the Licensing Officer, signed by the owner of the vehicle or other person in charge thereof. Such authorization shall be for the towing and storing of said vehicle. Such signed authorization shall be retained by the licensed tow car owner for a period of six (6) months and shall be exhibited upon demand to an official of the Village or any member of the Nassau County Police Department. The towing authorization required hereunder must be in substantially the following form:

TOWING AUTHORIZATION

(Insert name, address and phone number
of licensed towing company)

Date _____

Name _____

Address _____

Make and type of car _____

Year _____ State Registration No. _____

Towed from _____ to _____

Towing charges _____ [Amount shown on filed schedule,
not to exceed Thirty-five Dollars (\$35.00) for the first three (3)
miles or part thereof. Each additional mile or part thereof, Three
Dollars (\$3.00).]

Storage _____ [Amount shown on filed schedule,
not to exceed Five Dollars (\$5.00) for the first seven (7) days and
not more than Ten Dollars (\$10.00) per day for the next twenty-
three (23) days and not more than Fifteen Dollars (\$15.00) for each
day thereafter.]

Tow car driver's name _____

Address _____

License number _____

Tow car's medallion number _____

State registration _____

I authorize the towing of the above automobile.

Signature of owner or person in
charge

§ 24.65 Bill for towing

A. The owner of a tow car shall have prepared a pad of bills containing a printed billhead showing the name and address of his or her place of business. The operator of a tow car shall prepare a bill on this billhead form, in duplicate, the original of which shall be furnished to the owner of the disabled vehicle or his or her authorized representative. This bill must be printed in a form approved by the Licensing Officer and shall contain the following information:

1. Full name and address of the person engaging the tow car.
2. State registration number of the disabled vehicle.

3. Total amount to be charged for towing and storage rate per twenty-four (24) hours or part thereof.
4. Full name and address of the operator of the tow car.
5. State registration number of the tow car.
6. Tow car license number.

B. The duplicate of the bill shall be retained by the tow car owner for a period of six (6) months. These bills shall be exhibited upon demand of any official of the Village or any member of the Nassau County Police Department. Upon payment of the bill given to the owner of the disabled vehicle or his or her authorized representative, the licensee shall acknowledge receipt of payment of such bill.

§ 24.66 Estimates and repairs

No fee shall be charged either directly or indirectly for making an estimate for repairs on any motor vehicle involved in an accident or otherwise disabled without the prior written consent of the owner of the disabled vehicle. The agreement for repairs required hereunder must be in substantially the following form:

AGREEMENT FOR REPAIRS

It is hereby agreed between _____ [insert name and address of owner or person in charge, authorized to enter agreement] and _____ [insert name, address, telephone number, license number (if tow car licensee) of repairer] that _____ (owner or person in charge) agrees to pay the sum of \$ _____ to _____ (repairer) who in consideration thereof agrees to repair a _____ (year, make and type of automobile) New York State Registration No. _____ which was involved in an accident and removed by a tow car.
Dated at _____ this _____ day of _____, 19__

Licensee



(Owner)



(Person in charge)

(Check appropriate one)

§ 24.67

MUNICIPAL CODE

§ 24.67 Disposition of tow car

Every owner upon the sale or other disposition of a licensed tow car shall within twenty-four (24) hours notify the Village Clerk of such sale or other disposition and surrender the license or licenses.

ARTICLE VII

REGULATIONS FOR TOW CAR DRIVERS AND HELPERS

§ 24.71 General requirements

A licensed tow car driver and helper shall:

A. Have his or her identification card in his or her possession at all times while engaged in his or her occupation as a tow car driver or helper, and a tow car driver while so engaged shall also be in possession of his or her chauffeur's license.

B. Not permit any other person to use his or her identification card.

C. Not be engaged on an unlicensed tow car or on a tow car the license for which has been suspended or revoked.

D. Promptly report the loss of his or her identification card to the Village Clerk.

E. Report change of address to the Village Clerk within forty-eight (48) hours.

F. Have with him or her at all times properly authorized forms for towing and repair, such forms to be printed and maintained by tow car owners.

G. Not be addicted to the use of drugs or intoxicating liquors.

§ 24.72 Duties of driver and helper at scene of accident

Each driver and helper at the scene of an accident shall:

A. Exhibit his or her identification card to owner of disabled vehicle or person in charge thereof or to any Village officer or any member of the Nassau County Police Department.

B. Not remove any vehicle from the scene of an accident until proper authorization has been signed by owner of disabled vehicle or person in charge thereof.

C. Not remove any vehicle involved in an accident in which a person has been injured until released by a duly authorized member

of the Nassau County Police Department.

§ 24.73 Traffic violations

Every tow car driver and helper shall obey all traffic laws, ordinances, rules and regulations while operating a tow car and upon receipt of a summons or his or her arrest for any alleged violation of any such law, ordinance, rule or regulation shall report the same within three (3) days to the Village Clerk advising him or her of the nature of the offense charged and the name and the location of the court and the date upon which said summons is returnable or the date on which the hearing or such trial is to be held.

ARTICLE VIII

GENERAL REGULATIONS

§ 24.81 Soliciting Prohibited

It shall be unlawful for any person to drive along any street or bridge in the Village of Mineola and solicit towing work. Solicitation of towing work by the operator or other occupant of a tow car while parked on any street or bridge is also prohibited. A tow car operator shall not proceed to the scene of a disabled motor vehicle without having been requested or notified to do so by the owner or his or her authorized representative or the police. Responding to a call, merely upon notification from gas station attendants, taxicab drivers or other unauthorized persons, shall be considered in violation of this provision.

§ 24.82 Refusal of service prohibited

The owner or driver of any disabled motor vehicle shall have the right to require the services of any available licensed tow car. It shall be unlawful for any owner or driver or helper of any licensed tow car to refuse to render such services if such owner or driver of such disabled motor vehicle is able and willing to pay the fee prescribed in the schedule of prices filed by the owner of such tow car with the Village Clerk, unless it is physically impossible for such tow car to tow such disabled motor vehicle or the tow car is engaged in other work.

§ 24.83 Answer to communications required

Licensed tow car owners, drivers and helpers when required, shall answer all communications received from the Village Clerk.

§ 24.84 Obedience of directives required

It shall be unlawful for any owner, driver or helper to refuse to surrender a license or licenses to the Village Clerk upon demand after such license or licenses have been suspended, revoked or expired.

§ 24.85 Overcharging prohibited

It shall be unlawful for any person to demand or receive any payment in excess of the maximum charges permitted by this Chapter or shown on the schedule filed by the owner with the Village Clerk.

ARTICLE IX

§ 24.100 Violations and penalties

The violation of any provision of this Chapter shall be punishable as provided in § 1.10 of this Municipal Code.

HISTORICAL NOTE

This Chapter is a codification of Local Law # 10 of the year 1986.

Cross-reference:

Fee Schedule. p. R-4

References:

- Limiting unrestricted towing licenses to applicants with terminals within its borders is constitutional. *Village Auto Body Works v Tn of Hempstead*, 85 AD2d 692(19); 445 NYS2d 492. Cf. *Wharram v City of Utica*, 56 NY2d 733.
- Local law forbidding any person, firm or corporation to drive on any street or highway within town for the purpose of soliciting towing work is within town's ordinance making powers. *Richard's Serv St v Tn of Huntington*, 47 AD2d 963(31). [Same case 79 Misc2d 834; 361 NYS2d 497; 45 AD2d 885(23)]; 358 NYS2d 161. See also *Forest Hills Garden Corp v City of NY*, 103 Misc2d 636; 462 NYS2d 902.
- Ordinance regulating. Ordinance requiring all towing services to be placed on a rotation list to maintain business location within city is invalid. (Gen Mun L § 80.) *Wharram v City of Utica*, 56 NY2d 733 (5-2 decision); 83 AD2d 996 reversed.
- Regulation of (City of NY). Managers of private residential community have policy of towing illegally parked cars and charging \$50.00 redemption. This practice upheld as not being in violation of § 436-7.0 of Administrative Code of City of NY, since that section limited the statute's application to vehicles requiring 'towing because of accident, or because it is unable to proceed under its own motive power'. *Forest Hills Garden Corp v Kowler*, 55 NY2d 768; 447 NYS2d 246; 431 NE2d 971.
- Rotation list. In the absence of a statute or ordinance authorizing an official to establish a rotation list for towing vehicles, such official may not do so. Only a legislative body may delegate to an administrative officer the power to exercise discretion, which must be accompanied by standards to guide him. *Wharram v City of Utica*, 106 Misc2d 204.
- Transfer of tow truck licenses. "A license is not a commodity that can be bought and sold at will." p. 1071. "The court, however, perceives no basis for a restriction upon the transfer . . . of existing tow car licenses, assuming the party to whom the license is to be transferred meets the existing criteria . . ." p. 1073. *Mtr of Low Towing v Beame*, 93 Misc2d 1064; 404 NYS2d 501.
- Warrantless search. A warrantless search of a tow truck is justified and constitutional where the stop and inspection is expeditiously conducted; it is crucial to the regulatory scheme designed to protect the public and limited to the activity of towing vehicles away from an operational base or fixed place of business. *People v Velez*, 109 Misc2d 853; 441 NYS2d 176. See pp. 855-857; 858-860; 862-864 for decision of when administrative stop and inspections are permissible.